

50. **ISSUE: Re: MACE: HENDERSHOTT'S HANDLING OF THE
INVESTIGATION OF CARL KUNASEK – SUBJECT: HENDERSHOTT**

Chief Deputy David Hendershott

H45A. Allegedly, Chief Deputy David Hendershott requested, during the course of the investigation of Carl Kunasek, that Chief Deputy Bill Knight secure subpoenas and make public records requests seeking information relating to all the investments in a particular fund in which the County invested, and then to subpoena the records of every firm having any association with the investments. Knight considered the investigative tasks requested by Hendershott to be overbroad, and cautioned Hendershott that he did not want to create the same problems for MCSO that had arisen during the investigation of the *New Times*. Knight suggested to Hendershott that his plan was going to get MCSO into trouble, and in response, Hendershott stated to Knight, "We're done," and motioned for Knight to leave, apparently frustrated with Knight's response to the request.

WITNESS ACCOUNTS

Bill Knight

According to Knight, there was another matter where Hendershott was requesting overly broad subpoenas to be issued, this time the subpoenas would have been served upon the County Treasury Department. Knight declined preparing the subpoenas, much to Hendershott's dismay, and Knight expressed his concerns to Hendershott, telling him that he did not want to repeat the mistakes MCSO had made in the *Phoenix New Times*. Knight's account is as follows.

A: Ah, there was another allegation that came in, and I believe this one came in directly from Andy Thomas, or potentially, Lisa Aubuchon, I'm not sure which. But, Hendershott was consistently in contact with those two folks over at the County Attorney's Office. Someone at the County Attorney's Office, an investigator, had already looked into, briefly, a matter involving Andy Kunasek, another Board member. The allegation was that Kunasek, at least on two different occasions, had called up a State Treasury employee and questioned him on the likelihood of the County investing in some sort of fund. The, according to that initial report that we got from the investigator over at the County Attorney's Office, the Treasurer's response, the Treasury employee's response to Kunasek was, we can't do that because of ARS such and such and such and such, it would look bad, can't do it. Sorry. That type of a thing. That packet of information came over to Hendershott, Hendershott gave that to us and then I started having conversations with Hendershott in reference to things that he wanted to accomplish in this new investigation that was brought to our attention on yet another Board Supervisor.

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2 Q: Alright. Let me stop you for just a minute. And to the extent you know
3 these details, to the extent that you don't, I understand, but who did Andy
4 Kunasek speak with at the State Treasurer's Office?

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6 A: I don't remember his name. It was in that documentation that was
7 supplied to us by the County Attorney's Office. I remember reading it, but I don't
8 remember the name.

9
10 Q: Alright, but this information came to SO from the County Attorney's
11 Office?

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13 A: That's correct. And then it ultimately ended up going down at the hands
14 of someone in Organized Crime base, one of those two entities, or wherever you
15 want to call it to....

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17 A: And he, his direction was, is that he wanted to send a subpoena or a Public
18 Records Request to the Treasury Department first. And he wanted to include the
19 language similar to, he wanted to know every single investment the Treasury
20 Department had ever made and with what firms that was made. First off, to get a
21 comprehensive list of who the Treasury Department, County Treasury
22 Department, was doing their banking with, if you will. Their fund management
23 with. Secondary to that, he then wanted to go out to every single firm that the
24 Treasury Department had ever done business with and subpoena them for a
25 comprehensive client list of every single client that has ever invested with these
26 particular companies. His ultimate goal was, is he wanted to see if Kunasek was
27 tied to any one of these firms, and then potentially what Kunasek was investing in
28 and whether or not what he was trying to sell to this Treasury employee was
29 something that he was personally funded in. Because, the theory was, is that in
30 the event that the Treasury all of a sudden slapped in \$600,000,000 into a fund,
31 and that fund spikes because of that massive buy-in, or something along those
32 lines, obviously Kunasek, personally, could benefit greatly, depending upon how
33 well he was invested in that fund. My response to that was, way overbroad.
34 There is no way in hell we can start sending subpoenas out for that type of blanket
35 of information. It's just not going to work. We have to get much more, much,
36 much more specific if we're going to start issuing subpoenas on that type of
37 activity. And this is probably where I went, maybe one step too far again, but I
38 said, I don't want to see us get into a problem like we did with the *Phoenix New*
39 *Times* investigation. Where we subpoenaed, I guess at that point in time it was
40 Wilenchik that was our legal counsel, as special prosecutor. Through Wilenchik
41 they sent a subpoena to the *Phoenix New Times* for a comprehensive list of their
42 entire client database. And that case essentially got slapped back in our face.
43 Wilenchik got taken off as a Special Prosecutor. Andy Thomas immediately
44 dropped that case, 'cause it was ridiculous. So I made the comment that what
45 you're asking us to do here is exactly what we did in the *Phoenix New Times* case

1 and that's going to get us in trouble. And at the time that I'm saying that, he's
2 typing on his computer and he did one of those, lowered his glasses, looked up at
3 me through the top end of the glasses and just said, we're done. And I left. No
4 other conversation.

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6 Q: So, we're done, and he motions with his finger for you to exit the room?
7

8 A: Yeah, we're done. Go ahead, go on and leave. (pp. 20-21, Exhibit II21)
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10 Deputy Chief Knight did not take Hendershott's response as a way of Hendershott
11 thanking him for the sound advice, instead Knight was under the impression, based on
12 Hendershott's body language that Hendershott was frustrated with Knight's refusal to
13 act upon his request.
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15 A:His body language, the mannerisms in which he stopped working on
16 the computer, put his head down, lowered his glasses and looked at me, was a
17 look of frustration, in my opinion, a look of, again, I don't have loyal guys
18 potentially doing what I need them to do type of thing, and how am I going to get
19 it done, is the way I'm taking it. So, and I've been around Dave enough as a
20 Deputy Chief to know when he gets disgusted with a response that you give him.
21 In my opinion, there was no other way to take that type of a response. (p. 23,
22 Exhibit II21)
23

24 **David Hendershott**
25

26 Hendershott did not recall these series of events as involving Kunasek, but rather Fulton
27 Brock. When asked if Hendershott had discussions with Bill Knight about securing
28 subpoenas or making public records requests relating to the funds in which the County
29 invested, Hendershott acknowledged that he told Knight to place public records
30 requests for all of the places where the County had invested in stock purchases, and
31 then to work backwards and determine if any of these companies or individuals were at
32 all related to Fulton Brock's stock brokerage business. Hendershott did not believe that
33 Bill Knight did the request. Hendershott indicated that it was not uncommon for the
34 Sheriff's Office in MACE investigations to use a two-prong attack, issuing subpoenas
35 and also making public records requests. It was not unusual for records to be released
36 more quickly in response to public records requests than subpoenas.
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38 When asked if Knight had suggested that what Hendershott was considering was
39 overbroad, and that he did not want to put MCSO in the same position they had been in
40 with respect to the *New Times*, Hendershott commented that if Knight did make that
41 suggestion, then that "he doesn't know anything about the *New Times* case," and "he
42 wasn't close enough to the action to understand all of the legal finagling that we'd been
43 going through the last several years." (p. 22, Exhibit II16g)
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MCSO Investigation No. M081710, Principals: Hendershott, Black and Fox
Report of Administrative Investigation by PCSO
April 11, 2011

- 1 Hendershott says that he wanted the names of the companies that invested, and it
- 2 would be a public record in Maricopa County where the money was invested. He
- 3 wanted the names of the companies so MACE could conduct independent research on
- 4 each company, and see if any of the personnel had ties to Fulton Brock.
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